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Summary of Stakeholders' submissions on Barbados*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 9 stakeholders' submissions to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies

2. JS2 noted that Barbados implemented the recommendations from the second UPR cycle by ratifying the Convention on the Rights of Persons with Disabilities in 2013. It also noted that since the ratification, Barbados appointed a Monitoring Committee to submit its first report in 2015, which has not yet been completed.[1]

3. JS1 reported that Barbados had voted against every UN General Assembly Moratorium Resolution on capital punishment[2] and recommended that Barbados should ratify without reservations the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[3] JS3 recommended Barbados should implement the treaties it had ratified.[4]

* The present document was not edited before being sent to United Nations translation services.

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B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-cutting issues

Equality and non-discrimination[7]

4 JS3 reported that the recommendations concerning adoption of legislation and policies addressing and prohibiting discrimination on the basis of sexual orientation and gender identity, noted by Barbados, had not been implemented. It noted that there was no constitutional or legislative provision that protects against discrimination on the ground of sexual orientation in the areas of employment, healthcare, and education, leaving lesbian, gay, bisexual, transsexual and queer (LGBTQ+) persons who encounter discrimination without recourse for legal redress and protection.[8] JS3 also reported that the provisions of the Sexual Offences Act criminalizing consensual homosexual relations were still maintained, despite the recommendations, noted by Barbados, to repeal them[9] and that there was no specific LGBTQ+ hate crime or hate speech legislation.[10] It recommended that the Government should engage in public education and sensitization campaigns about LGBTQ+ individuals to combat and transform attitudes of prejudice, discrimination and stigma against them.[11]

5 JS3 also reported of the absence of a law or court procedure/court process under the Civil Procedure Rules to change one's gender marker (the indication of male or female on identification documents), although there is no law which expressly prohibits it.[12]

2. Civil and political rights

Right to life, liberty and security of person[13]

6. JS1 noted that during its second UPR cycle, Barbados received 19 recommendations regarding the death penalty, including two recommendations on the mandatory death penalty and recommendations to establish a formal moratorium as an initial step toward abolition.[14] It noted that the Government responded to these recommendations by reaffirming its de facto moratorium and noting the absence of national or bipartisan consensus for the abolition of the death penalty[15], although little had been done to initiate open and public debates in this regard.[16] JS1 reported that Barbados continued to apply the law on death penalty and, in 2016, Barbadian courts sentenced three men to death after they were convicted of murder. A draft of the Offences against the Person (Amendment) Bill 2014, which would eliminate the mandatory death penalty[17] and comply with the Inter-American Court on Human Rights rulings in Boyce et al v. Barbados and DaCosta Cadogan v. Barbados, remained under consideration by the Parliament and there had been no updates on the status of this bill since 2015.[18] JS1 recommended that Barbados impose a moratorium on the mandatory death penalty, requiring resentencing hearings for all persons currently on death row by virtue of the country's mandatory death penalty scheme.[19]

7. JS1 also noted that the laws of Barbados do not limit the death penalty to "the most serious crimes"[20] and bar judges from exercising discretion in sentencing, and thus from adjusting punishments based on the defendant's personal circumstances or the circumstances under which the offense was committed.[21] It recommended that Barbados amend its penal laws to limit the death penalty to only the "most serious crimes" and eliminate the possibility of a death sentence for all crimes not involving

intentional killing.[22] JS1 also reported that the country's death row population had increased from four to thirteen since 2011[23] and that there was a lack of transparency concerning death row inmates and their detention conditions.[24] JS1 recommended that Barbados conduct a review of the status of all prisoners on death row and automatically commute to life imprisonment the death sentence of any inmate sentenced more than five years ago in accordance with the requirements outlined by the Privy Council and as applied in Bradshaw v. Attorney General of Barbados. It also recommended to publish and update statistics on death row inmates.[25]

8. JS3 reported that there was no specific legislative framework to protect the LGBTQ+ population from harassment and violence, while the police did not treat the reports of harassment and violence against the LGBTQ+ persons with the same due attention, seriousness and diligence as other matters.[26] It recommended enacting LGBTQ+ specific hate crime legislation to allow for the prosecution of individuals committing violence against members of the LGBTQ+ community.[27]

Administration of justice, including impunity, and the rule of law[28]

9. The Child Rights International Network (CRIN) noted that life imprisonment remained a lawful sentence for offences committed by children.[29] It also noted that the minimum age of criminal responsibility in the country was 11 years[30] and that persons aged 16 or older were tried as adults.[31] The sentence of detention during the court's pleasure, which replaced the "detention during her Majesty's pleasure", is mandatory for any person under the age of 18 years convicted of an offence for which the death penalty would be applicable for an adult, and indeterminate sentence, allowing life imprisonment. CRIN also noted that children under the age of 14 could not be formally sentenced to "imprisonment", but to detention during the court's pleasure.[32]

3. Economic, social and cultural rights

Right to work and to just and favourable conditions of work[33]

10. JS3 noted that individuals with non-traditional gender expressions faced discrimination in the job market and lacked protection in the workplace. It reported that neither public nor most public employers had policies to address discrimination on any basis, including sex, gender identity or expression or sexual orientation.[34] It recommended Barbados to enact legislation that prohibits employers from discrimination on the basis of sexual orientation and gender identity in the hiring process and at all levels and spheres of the employment process.[35]

Right to health[36]

11. ADF International noted that access to quality health-care services was less available in remote and poor areas[37] and that high rates of maternal mortality was linked to the inability to access obstetric care, lack of information and lack of health workers, especially in the case of women living in poverty and in remote or rural areas.[38] It noted that Barbados' maternal mortality ratio (MMR) in 2015 was 27 deaths per 100,000 live births, down from 58 per 100,000 in 1990.[39] It noted that the Government provides school outreach programmes for adolescents in an effort to reduce teenage pregnancy, but adolescent pregnancy rates were nevertheless still very high, with 40 per cent of pregnancies occurring in women under the age of 20.

12. JS3 [40] reported that discrimination and stigma are major barriers to accessing health care for LGBTQ+ individuals, resulting in refusal to provide health care, poor quality care and disrespectful or abusive treatment. It also noted that health care

providers might have a poor understanding of the specific health care needs of LGBTQ+ people. JS3 reported that the pervasive stigma and discrimination had a negative impact on mental and emotional health of LGBTQ+ persons, leading to higher levels of stress, anxiety and self-harming behaviors such as suicide. It noted that adolescent LGBTQ+ persons faced difficulties accessing health care, including services, information and contraceptives, due to the legal gap between the age of consent and medical treatment age.[81] JS3 further noted that hormone replacement therapy was not part of the national health program and quality hormones were limited in local pharmacies, forcing transgender individuals to turn to the black market.[82]

4. Rights of specific persons or groups

Women[83]

13. Life In Leggings: Caribbean Alliance Against Gender-based Violence Through Education, Empowerment & Community Outreach (LIL) recommended that a combined approach to policies on domestic violence, poverty reduction and gender equality was necessary to address women's economic dependency and domestic violence.[84] LIL provided a number of recommendations for Barbados concerning domestic violence and sexual harassment, including: defining the crime of domestic violence and sexual harassment in legislation; adopting legal measures to punish domestic violence; accelerating the adoption of Employment Sexual Harassment Bill; implementing recommendations made by the National Reform Committee tasked with reviewing the Domestic Violence (Protection Orders) Act; continuing to develop a National Action Plan on Domestic Violence; training police on domestic violence issues; seeking expedition of criminal trials, where appropriate; addressing the gaps in the legislation on domestic violence identified by the Committee established by the Bureau of Gender Affairs and; gradually forming special police intervention units with female personnel qualified in domestic violence cases.[85] GIEACPC noted that since the second UPR cycle, amendments had been enacted to the Domestic Violence (Protection Orders) Act 1994.[86]

14. LIL also recommended continuing efforts to combat gender stereotyping and gender inequality across the board and working towards the empowerment of women in all spheres of society.[87] JS4 noted that while Barbados accepted the recommendations concerning gender inequality in conferring nationality from parents to their children, the Constitution treated children born outside Barbados to a married Barbadian mother differently to those of a married Barbadian father, and denied single fathers the ability to confer nationality on children on an equal basis with single mothers. It argued that the nationality law's discrimination against single fathers is also pertinent to the perpetuation of discrimination against women, by implicitly endorsing and reinforcing the notion that the responsibilities of parenting 'naturally' belong exclusively to the mother.[88] Furthermore, the Barbados Citizenship Act, Cap 186 (last amended 1982) denied Barbadian women the equal right to confer their nationality on children in the case of joint adoption,[89] while Barbadian men were permitted to confer their nationality on adopted children in all circumstances. Barbadian women are also denied the right to confer their nationality on foreign spouses, a right that was reserved for men in the Constitution of Barbados.[90]

Children[91]

15. Global Initiative to End All Corporal Punishment of Children (GIEACPC) noted that the Government accepted a recommendation on changing societal

attitudes to corporal punishment, but rejected several recommendations to prohibit it in all settings.[52] It noted that in Barbados, corporal punishment is lawful in all settings, except for day nurseries,[53] under article 4 of the Prevention of Cruelty to Children Act 1904 and the Education Act 1983.[54] GIEACPC noted that the Education (Amendment) Bill was passed in March 2015 and did not prohibit corporal punishment.[55] It also reported that corporal punishment was lawful as a sentence for crime for boys. The Magistrate's Courts Act 2001 provided for boys aged 8-15 to be "privately whipped" at a police station, up to 12 strokes instead of, or in addition to, any other punishment. The Juvenile Offenders Act 1932 also provided for such corporal punishment.[56] GIEACPC furthermore reported that corporal punishment was also lawful as a disciplinary measure in penal institutions under the Reformatory and Industrial Schools Act 1926, which authorized infliction of corporal punishment as a disciplinary measure for boys, and allowed a magistrate to order a whipping as a punishment for attempted escape.[57] GIEACPC noted that the pending Juvenile Justice Bill would repeal these provisions.[58] Meanwhile, the Prisons (Amendment) Act 2015 repealed the provisions in the Prisons Act 1964, authorizing corporal punishment for specific disciplinary offences, up to 12 strokes for persons below the age of 21.[59]

16. I Am A Girl Barbados (IAAGB) noted that the child protection mandate of the Government had scope for significant improvement with regard to a girl child.[60] It reported that the Government's attempts to curtail sexual abuse of children had been partially effective, but that the lengthy duration of court trials exhausted some victims from reaching the justice.[61] IAAGB also reported on the high prevalence of intergenerational sex and its link to transactional sex, which was seen as culturally accepted within the country.[62] It also reported that child pornography was a growing concern and victims were subjected to stigmatization.[63]

17. IAAGB and LIL reported on the situation of "missing" girls, who tried to escape abusive conditions, but were treated as delinquent children[64] and returned back to the abusive situation or remanded to a prison, charged with "wandering" or "loitering", instead of being provided with counselling and access to justice.[65] It recommended that laws should apply more rehabilitative rather than castigating measures.[66] IAAGB also informed of an increase in aggressive and violent behaviour in the secondary school system, attributed to bullying and cyberbullying.[67]

18. JS4 stated that children denied Barbadian nationality due to gender discrimination in the nationality laws might also suffer from violations of their right to healthcare and to education, as the national healthcare system provided care free of charge only to citizens and residents, while foreigners and non-citizens must pay both for health care and for schools fees for secondary school.[68]

Persons with disabilities[69]

19. JS2 noted that the recommendation from the second cycle of the UPR review to conduct a census of the population with disabilities, supported by Barbados, had not been implemented.[70] JS2 reported on the lack of a comprehensive national census[71] and recommended Barbados to establish a system of data collection, allowing an accurate representation of the situation of persons with disabilities in areas such as education, employment, housing, health and access to public facilities.[72]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at www.ohchr.org.

Civil society

Individual submissions:

ADF International	ADF International, 1209, Geneva, Switzerland;
CRIN	The Child Rights International Network, London, United Kingdom;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, United Kingdom;
IAAGB	I Am A Girl Barbados, St. John, Barbados;
LIL	Life In Leggings: Caribbean Alliance Against Gender-based Violence Through Education, Empowerment & Community Outreach, Bridgetown, Barbados.

Joint submissions:

JS1	**Joint submission 1 submitted by**: the Advocates for Human Rights (AHR), Minneapolis, USA, The Greater Caribbean for Life, Tacarigua, Trinidad and Tobago and The World Coalition against the Death Penalty, Montreuil, France;
JS2	**Joint submission 2 submitted by**: Barbados Council for the Disabled (BCD), St. Michael, Barbados and Barbados National Organisation of the Disabled – Barnod.Inc., Bridgetown, Barbados;
JS3	**Joint submission 3 submitted by**: EQUALS, Eastern Caribbean Alliance for Diversity and Equality (ECADE) and ARC International, St Michael, Barbados;
JS4	**Joint submission 4 submitted by**: Global Campaign for Equal Nationality Rights, New York, USA, and Institute on Statelessness and Inclusion, Eindhoven, The Netherlands.

[2] For relevant recommendations see A/HRC/23/11 and Add.1, paras. 102.1-102.2, 102.4-102.18, 102.57, 102.66, 102.67.

[3] JS2, p.2-3.

[4] JS1, para 18.

[5] JS1, para 27.

[6] JS3, p.8.

[7] For relevant recommendations see A/HRC/23/11 and Add.1, paras. 102.38, 102.45, 102.53-102.56, 102.96-102.102.

[8] JS3, p.2-3.

[9] JS3, p.1.

[10] JS3, p.2.

[11] JS3, p.9.

[12] JS3, p.8.

[13] For relevant recommendations see A/HRC/23/11 and Add.1, paras. 102.56-102.70, 102.97.

[14] JS1, para 2.

[15] JS1, para 3.

[16] JS1, para 7.

[17] JS1, para 6.

[18] JS1, para 22.

[19] JS1, para 27.

[20] JS1, para 20.

[21] JS1, para 21.

[22] JS1, para 27.

[23] JS1, para 19.
[24] JS1, para 24.
[25] JS1, para 27.
[26] JS3, p.3.
[27] JS3, p.9.
[28] For relevant recommendations see A/HRC/23/11 and Add.1, paras. 102.28, 102.80, 102.82-102.86.
[29] CRIN, para 1.
[30] Ibid.,para1.
[31] Ibid. para 2.
[32] Ibid. para 3.
[33] For relevant recommendations see A/HRC/23/11 and Add.1, paras. 102.23-102.25, 102.45, 102.53-102.56.
[34] JS3, p.5.
[35] JS3, p.9.
[36] For relevant recommendations see A/HRC/23/11 and Add.1, paras. 102.45, 102.53-102.56.
[37] ADF International, para 11.
[38] Ibid. para 12.
[39] Ibid. para 16.
[40] Ibid. para 20.
[41] JS3, p.6.
[42] JS3, p.7.
[43] For relevant recommendations see A/HRC/23/11 and Add.1, paras 102.20-102.21, 102.29-102.31, 102.47-102.52, 102.72-102.78.
[44] LIL, p.3.
[45] Ibid. p.4.
[46] GIEACPC, para 1.2.
[47] LIL, p.5.
[48] JS4, para 17.
[49] JS4, para 7.
[50] JS4, para 14.
[51] For relevant recommendations see A/HRC/23/11 and Add.1, paras 102.28, 102.50-102.51, 102.78-102.86.
[52] GIEACPC, para 1.1.
[53] Ibid. para 2.
[54] Ibid. para 2.6.
[55] Ibid. para 2.7.
[56] GIEACPC, para 2.10.
[57] Ibid. para 2.8.
[58] Ibid. para 2.10.
[59] Ibid. para 2.9.
[60] IAAGB, p.2.
[61] Ibid. p.3.
[62] Ibid. p.3.
[63] Ibid. p.4.
[64] Ibid. p.5.
[65] LIL, p.1.
[66] IAAGB, p.6.
[67] Ibid. p.5.
[68] JS4, para 22.
[69] For relevant recommendations see A/HRC/23/11 and Add.1, paras 102.45, 102.114-102.115.
[70] JS2, p.3.
[71] JS2, p.3.
[72] S2, p.4.